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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,813	07/01/2003	Mark Schmidt	108-194USANA0	5044
7590 03/11/2005 Thomas J. Perkowski, Esq., P.C. Soundview Plaza 1266 East Main Street Stamford, CT 06902			EXAMINER KIM, AHSHIK	
			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/611,813	Applicant(s) SCHMIDT ET AL.	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/1/03 (initial fling & prelim Amdt).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 93 and 94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 93 and 94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continuation Data

1. Acknowledged this application is a continuation application of U.S. Serial No.
5 10/342,433 filed on January 12, 2003, which is a continuation-in-part application of U.S. Serial
No. 09/452,976 filed on December 2, 1999, now U.S. Patent No. 6,595,420 and U.S. Serial No.
09/204,176 filed on December 3, 1998, now U.S. Patent No. 6,283,375.

Information Disclosure Statement

- 10 2. IDS filed on April 23, 2004 is a duplicate of IDS filed on November 03, 2003.
Accordingly, one copy of PTO-1449 is signed and enclosed in this Office Action.

Oath/Declaration

- 15 3. The oath or declaration is defective. A new oath or declaration in compliance with 37
CFR 1.67(a) identifying this application by application number and filing date is required. See
MPEP §§ 602.01 and 602.02.

The oath or declaration filed on January 29, 2004 is defective because:

1. Title of the invention is incorrect.
- 20 2. Assigned Application Number is incorrect. The Oath (2nd page thereafter) refers
the assigned application number as 10/342,433, which is incorrect.
3. Claiming benefit of the earlier filing date perhaps should include US Serial No.
10/342,433.

Specification

4. The lengthy specification and a large number of drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation
5 is requested in correcting any errors of which applicant may become aware in the specification.

Preliminary Amendment

5. Receipt is acknowledged of the preliminary amendment filed on July 1, 2003. In the amendment claims 1-92 were canceled without prejudice, and claims 93 and 94 were newly
10 added. Currently, claims 93 and 94 remain for examination.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

15 A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 93 and 94 are rejected under 35 U.S.C. 102(b) as being anticipated by Koenck et
20 al. (US 5,410,141, hereinafter “Koenck”).

Koenck discloses a portable and hand-supportable (see main figure or figure 11) barcode symbol reading system (see abstract; col. 2, lines 31+) comprising a wireless transceiver (col. 3, lines 12-15) and a base/host machine also comprising a wireless capabilities (col. 1, lines 54-66). Radio receiver and transmitter (or transceiver) as shown in figure 10 (col. 15, lines 6+) suggests

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two-way communication between the reader and the base/host. The terminal, when a proper signal is generated, initiates to go into a sleep mode (col. 8, line 66 – col. 9, line 21; col. 9, lines 31+; col. 11, lines 31+). The terminal is further comprised of circuitries for detecting battery low-voltage condition and inform the user of it (col. 9, lines 31+). The remote host computer (col. 1, lines 54-66) would have, although not explicitly suggested, a housing to enclose the component parts which include RF transmitter and receiver (or transceiver).

Conclusion

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Rockstein et al. (US 5,844,229); Blevins (US 5,272,324); Gombrich et al. (US 4,835,372); Zook et al. (US 4,850,009) disclose a data capturing terminal wirelessly communicating with host machines. Applicant is respectfully suggested to carefully review these references.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim